

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WISCONSIN

GERALD F. BUSHMAKER,

Plaintiff,

v.

A. W. CHESTERTON COMPANY, *et al.*

Defendants.

Case No. 3:09-cv-00726 SLC

**DEFENDANT RAPID-AMERICAN CORPORATION'S
PROPOSED SPECIAL VERDICT**

We, the jury, duly impaneled in the above-entitled action, and sworn to try the issues therein, find as follows:

1. Did Gerald Bushmaker have significant occupational exposure to asbestos fibers from asbestos-containing products manufactured by The Philip Carey Manufacturing Company before June 1, 1967?

ANSWER YES OR NO: _____

If you answered question no. 1 "yes," then proceed to question 2. If you answered question no. 1 "no," do not answer any further questions.

NEGLIGENCE

2. If you answered question no. 1 "yes," then answer this question:

Was The Philip Carey Manufacturing Company negligent with respect to the design or manufacture of the asbestos-containing products to which Gerald Bushmaker was exposed?

ANSWER YES OR NO: _____

3. If you answered question no. 2 "yes," then answer this question:

(If you answered question no. 2 "no," do not answer this question.)

Was such negligence of The Philip Carey Manufacturing Company a substantial factor in the cause of Gerald Bushmaker's lung cancer?

ANSWER YES OR NO: _____

4. Did Gerald Bushmaker have significant occupational exposure to asbestos fibers from asbestos-containing products supplied by A.W. Chesterton?

ANSWER YES OR NO: _____

5. If you answered question no. 4 "yes," then answer this question:

(If you answered question no. 4 "no," do not answer this question.)

Was A.W. Chesterton negligent with respect to the design or manufacture of the asbestos-containing products to which Gerald Bushmaker was exposed?

ANSWER YES OR NO: _____

6. If you answered question no. 5 "yes," then answer this question:

(If you answered question no. 6 "no," or did not answer question no. 6, do not answer this question.)

Was such negligence of A.W. Chesterton a substantial factor in the cause of Gerald Bushmaker's lung cancer?

ANSWER YES OR NO: _____

[Question nos. 4, 5 and 6 are to be repeated for each entity that is shown by competent evidence to have caused and/or contributed to cause Mr. Bushmaker's alleged injury.]

7. Did Consolidated Papers fail to provide Gerald Bushmaker with employment as safe as the nature of his employment would reasonably permit?

ANSWER YES OR NO: _____

8. If you answered question no. 8 "yes," then answer this question:

Was the failure of Consolidated Papers to provide a safe place of employment for Gerald Bushmaker a substantial factor in the cause of his lung cancer?

ANSWER YES OR NO: _____

9. Was the plaintiff, Gerald Bushmaker, negligent with respect to his own safety?

ANSWER YES OR NO: _____

10. If you answered question no. 10 "yes," then answer this question:

Was the negligence of Gerald Bushmaker a substantial factor in the cause of his lung cancer?

ANSWER YES OR NO: _____

STRICT LIABILITY

11. If you answered question no. 1 "yes," then answer this question:

When they left the possession of The Philip Carey Manufacturing Company, were the asbestos-containing products to which Gerald Bushmaker was exposed in such a defective condition so as to be unreasonably dangerous?

ANSWER YES OR NO: _____

12. If you answered question no. 11 "yes," then answer this question:

(If you answered question no. 11 "no," then do not answer this question and skip to the next question.)

Was the defective and unreasonably dangerous condition of the asbestos-containing products supplied by The Philip Carey Manufacturing Company a substantial factor in the cause of Gerald Bushmaker's lung cancer?

ANSWER YES OR NO: _____

13. If you answered question no. 4 "yes," then answer this question:

When they left the possession of A. W. Chesterton, were the asbestos-containing products to which Gerald Bushmaker was exposed in such a defective condition so as to be unreasonably dangerous?

ANSWER YES OR NO: _____

14. If you answered question no. 13 "yes," then answer this question:

(If you answered question no. 13 "no," then do not answer this question and skip to the next question.)

Was the defective and unreasonably dangerous condition of the asbestos-containing products supplied by A.W. Chesterton a substantial factor in the cause of Gerald Bushmaker's lungcancer?

ANSWER YES OR NO: _____

[Question nos. 13 and 14 are to be repeated for each entity whose products are shown by competent evidence to have caused and/or contributed to cause Mr. Bushmaker's alleged injury.]

15. Answer the following question only if your answers to the previous questions required you to do so. The particular question or questions you will have had to answer "yes" in order to assign a percentage to any entity in this question will be in parentheses under such entity. Only assign a percentage to an entity if you have answered either or both of the questions referred to in parentheses "yes."

Assuming the total conduct causing Gerald Bushmaker's lung disease to be 100 percent, what percentage, if any, do you attribute to:

- a. The Philip Carey Manufacturing Company _____ %
(either or both question nos. 3 and 12)
- b. A.W. Chesterton _____ %
(either or both question nos. 6 and 14)

[Each entity for whom there has been a finding that competent evidence exists that that entity or that entity's products caused or contributed to plaintiff's alleged injury should be included in this comparison.]

c. Consolidated Papers _____ %
(question no. 8)

d. Gerald Bushmaker _____ %
(question no. 10)

TOTAL: 100%

17. Answer the following question only if you have answered question no. 3 or question no. 12 "yes."

What sum of money will fairly and reasonably compensate Gerald Bushmaker with respect to the following:

(a) Past pain, Suffering and Disability \$ _____

(b) Past Health Care Expenses \$ _____

(c) Future Pain, Suffering and Disability \$ _____

(d) Future Health Care Expenses \$ _____

DATED at Madison, Wisconsin, this ____ day of _____, 2013.

Foreperson's Signature